REMARKS

Status of Claims

Claims 1-7 and 9-48 are currently pending after entry of this amendment. Claims 1-48 stand rejected. Claim 1 has been amended. Claim 8 has been cancelled and incorporated into claim 1. Entry and consideration of this amendment is respectfully requested.

Support for Amendments

No new matter is believed to have been added by the current amendments. Support for the amendment to claim 1 can be found in claim 8, as it was originally presented.

Amendments to the Specification

The Examiner has indicated that the application numbers cited on pages 1 and 14 of the specification should be updated as U.S. Patent Numbers if the applications have been patented. Also, the Examiner requests that the remaining application numbers be designated as "commonly owned." In light of the fact that some of these applications are currently co-pending, Applicants prefer to wait until a Notice of Allowance is received for this application to amend the specification to indicate the patent numbers of all of the patented applications.

Rejections under 35 U.S.C. § 102

Rejections over Cole

Claims 1-7, 12-15, and 17 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,444,214, hereinafter Cole. The Examiner asserts that Cole discloses providing a web of material and applying a wetting solution to the web, and that the wet web can be packaged in a roll, which may be coreless. The Examiner further asserts that Cole inherently teaches winding a wet web, and that the wet web is broken after being wound into a roll.

The rejection of claims 1-7, 12-15, and 17 has been obviated by appropriate amendment. As amended, independent claim 1 now recites that the web travels at a speed of at least 60 meters per minute. Cole does not disclose, nor has the Examiner asserted that Cole discloses, providing a web of material that travels at this speed. Cole does not disclose each and every element of claims 1-7, 12-15 and 17 as amended, and Applicants respectfully request the Examiner to withdraw this rejection.

Rejections over Perini

Claims 1, 12, 14, 17, 31-34, and 39-40 stand rejected under 35 U.S.C. § 102(a) as being anticipated by WO 01/40090 A2, hereinafter Perini. The Examiner asserts that because Perini discloses that "the presence of moisture or liquid impregnating the material would make the changeover difficult or would in some cases even render it impossible, with the consequence that the winding process could not be performed continuously," p. 8, line 32 – p. 9, line 4, that the inventor of Perini necessarily had to have performed the step of breaking the web while the web was wet, or had knowledge of the claimed step, in order to determine that the step of cutting while the web was wet was difficult or impossible.

Applicants respectfully traverse this rejection, as any knowledge or use on the part of the inventor of the Perini reference is not applicable as prior art under 35 USC 102(a). The statute of 35 U.S.C. § 102(a) states that a person shall be entitled to a

patent unless the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent. The Examiner argues that the step of breaking the web while the web was wet was known to the inventor of Perini before Applicants' filing date. It cannot be argued that this breaking step was patented or described in a printed publication because, as the Examiner has pointed out, the step is absent from the disclosure of the reference, and knowledge is only inferred from the fact that Perini teaches away from this particular step.

Even if the step of breaking the web while the web was wet was known to the inventor of Perini, the knowledge or use must be "in this country" in order to be asserted under 35 U.S.C. § 102(a) [MPEP § 2132 (II)]. The Examiner has not provided any evidence that the knowledge or use on the part of the inventor of the Perini reference occurred in the United States. Rather, the information on the face of the reference notes that the residence of the inventor and the location of the assignee are in Italy and not in the United States. The Examiner has failed to point to any evidence which tends to show that the inventor's use or knowledge was in fact in this country, rather than in Italy.

Thus, even assuming the inventor of Perini knew that it was possible to break the web after wetting it, that knowledge or use was not "in this country." Perini does not disclose each and every element of the claims, and Applicants respectfully request the Examiner to withdraw this rejection.

Rejections under 35 U.S.C. § 103

Rejections over Perini

Claims 2-11, 16, and 18-30 stand rejected under 35 U.S.C. § 103(a) as obvious over Perini. In view of the above remarks regarding Perini, Applicants respectfully traverse this rejection. Claims 2-11, 16, and 18-30 all include the step of breaking the web after it has been wetted. As noted above with respect to the anticipation rejection over this reference, Perini specifically requires that the web is dry when it is broken. Moreover, Perini teaches away from breaking a wet web, stating that breaking a web after it is wetted would cause difficulty in the winding process. There can be no suggestion or motivation to modify the Perini method to include the breaking of a wet web in view of these teachings in the reference. Moreover, because Perini only qualifies as a prior art reference under § 102(a) it must either disclose public knowledge or use in this country of the claimed element. As discussed above, the disclosure of Perini does not teach or suggest such knowledge or use. Accordingly, Perini does not teach or suggest each and every element of claims 2-11, 16, 18-30, and Applicants respectfully request that this rejection be withdrawn.

Rejections over Perini in combination with Cole

Claims 13, 15, and 20 were rejected under 35 U.S.C. § 103(a) as obvious over Perini in view of Cole. The rejection of claims 13, 15 and 20 is respectfully traversed, as Cole is not a proper reference under 35 U.S.C. § 103. Applicants have previously addressed the impropriety of this combination in the Amendment and Request for Reconsideration filed August 22, 2003. To date, the Examiner has failed to address this statement of law. The present application and U.S. Patent. No. 6,444,214 to Cole were, at the time the invention of the present application was made, commonly owned by Kimberly-Clark Worldwide, Inc. Accordingly, under 35 USC § 103(c), Cole cannot be used, alone or in combination with other references, in a rejection under 35 U.S.C. § 103. Applicants respectfully request the Examiner to withdraw this rejection.

CONCLUSION

In conclusion, all of the grounds raised in the outstanding Office Action for rejecting the application are believed to be overcome or rendered moot based on the remarks above. Thus, it is respectfully submitted that all of the presently presented claims are in form for allowance, and such action is requested in due course. Should the Examiner feel a discussion would expedite the prosecution of this application, the Examiner is kindly invited to contact the undersigned.

Also submitted at this time is a Petition For Extension of Time for one (1) month.

Respectfully submitted,

2/10/04

Jonathan P. Taylor, Ph.D.
Registration No. 48,338
Agent for Applicant

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200